



# STORMWATER DRAINAGE RESPONSIBILITIES

## INTRODUCTION

Stormwater is surface water that runs off roads, footpaths, grassed areas, carparks, driveways, roofs, and other natural ground surfaces. Stormwater that is unable to enter the underground drainage system will find its natural way to the nearest watercourse via overland flow paths. These overland flow paths are typically natural depressions (that can often occur through private property), open channels, roadways, and public reserves.

## PROPERTY OWNER RESPONSIBILITIES

Property owners have a range of responsibilities, which if carried out correctly, will minimise the threat of stormwater damage in the event of heavy rain. These responsibilities include:

- You must maintain your roof water drainage, stormwater pipes, gutters, downpipes, stormwater inlet pits and any other components of your approved drainage system on your property in good working condition and in compliance with any Council requirements.
- You must maintain the stormwater pipe and outlet from your property to a legal point of discharge. In urban areas with kerb and gutter this includes the concrete around the stormwater outlet.
- You are required to accept natural overland flow from adjoining properties or public land and must not divert, redirect, or concentrate the flow from its natural path onto neighbouring properties

- It is important to note that downstream property owner cannot erect any type of barrier by way of walls or closed fencing that interferes with the path of stormwater – if you are downstream, you must accept the ‘natural’ run-off onto your property
- You must ensure that all buildings (including sheds) have an adequate stormwater drainage system connected to a legal point of discharge
- When constructing hardstand areas, you must control stormwater to prevent it from flowing onto adjacent properties. It is preferable to minimise the area of water-resistant surfaces such as concrete, paved areas and driveways

## WHEN COUNCIL MAY TAKE ACTION

Council’s Development Monitoring Team will investigate and act in relation to stormwater drainage complaints only where it relates to the flow of surface water from one property across the common land boundary onto another property and where the following criteria has been met:

- Evidence being produced that substantiates the surface water is likely to cause physical damage to land or building on the other land
- Surface water has been directed to and/or concentrated in a particular area by a man-made structure or drain
- Surface water is the result of defective roof drainage from a building

## WHEN COUNCIL WILL NOT TAKE ACTION

Council officers have the discretion to take no action or are unable to act in the following circumstances:

- Surface water run-off occurs only in periods of exceptionally heavy rainfall
- The surface water is natural run-off from a higher property or properties due to the topography and isn't redirected in any manner
- Surface water is flowing down and/or across existing hard surface areas such as driveways, concrete slabs, or paved areas
- The location of an existing dwelling, building, outbuilding, retaining wall or fence impacts surface run-off
- The run-off is from new development work that is the subject of a development consent and has been constructed in accordance with that consent
- Stormwater discharges from defective or blocked private drainage easement infrastructure, e.g., pipes and drainage pits. It should be noted that inter-allotment easements are the responsibility of the property owners who are burdened by and/or benefited by the easement.  
This is further explained below.

## INTER-ALLOTMENT DRAINAGE

Inter-allotment drainage lines are installed within dedicated easements by the developer at the time of construction of the subdivision to facilitate the draining of surface water from lots that are unable to drain to the street.

These private inter-allotment drainage easements and their maintenance are the responsibility at law of the respective beneficiaries of the easements and not the responsibility of Council. Moreover, the liability arising from the damage caused by lack of maintenance and upkeep of the inter-allotment stormwater networks lies with the beneficiaries of the easement.

Council is not responsible for the maintenance and control of these inter-allotment drainage systems unless listed as a benefiting authority on the Section 88B Instrument (Planning instrument setting out terms of easements) and as such Council will not become involved in disputes between neighbours regarding the obstruction of inter-allotment drainage easements.

Actions taken by Council include:

1. Council will receive and record any private inter-allotment drainage easement complaint.
2. Council will thoroughly investigate any complaint regarding private inter-allotment drainage easements to identify the validity or legitimacy of the complaint and any actual or likely damage that might arise or be caused as a result of the inter-allotment drainage issue.

3. Following Council's investigation, Council will write to all the properties that are burdened and benefited by the private inter-allotment drainage easement informing the property owners of:
  - a. The complaint;
  - b. Council's finding in relation to the complaint
  - c. Their respective obligations as beneficiaries to maintain the easement
4. Council will offer to facilitate a meeting of all affected landowners in an attempt to co-ordinate an amicable and just resolution to the inter-allotment drainage issue.

## NATURAL FLOW & SEEPAGE

Natural flow is the flow path down the slope following the contours of the land and occurs before any excavation, development, or building. An upstream property owner cannot be held liable merely because surface water flows naturally from their land onto the lower land of a neighbour.

The upstream property owner may be liable if the water is made to flow in a more concentrated form than it would naturally flow. Ideally, runoff should be directed to the street, or to a drainage system if available.

Property owners need to be aware that landscaping can change the topography of a property and the way it distributes water.

Council is unlikely to investigate stormwater complaints involving the natural flow of stormwater from one property to another.

Due to the topography of the shire, Council will not act on minor ponding of water along road verges where there is insufficient fall. In circumstances where ponding of water exceeds 100mm, Council will investigate the issue.

Seepage is the responsibility of the individual property owners and should be controlled where possible.

Where sloping blocks have been excavated to obtain a flat yard or building site, seepage drains should be constructed to collect and redirect water to an approved stormwater drainage system.

## OVERLAND FLOODING

Localised overland flooding may occur when one or more of the following happens:

- The amount of rainfall exceeds the design capacity of the stormwater and roof drainage system
- Private inlet pits and pipes are undersized or become blocked
- A building, structure or fence is obstructing the overland flow path

You can be held liable for damages if changes on your property increase flood levels and associated risk on an adjoining property.

## DRAINAGE EASEMENTS (BENEFITING COUNCIL)

A drainage easement is an area of privately owned land that Council has the authority to carry out works required on drainage infrastructure within the easement.

Infrastructure can include open drainage channels, below ground pipe systems and grated inlets that are designed to accept allotment and roof water together with larger upstream catchment stormwater flows.

Council may carry out maintenance work on stormwater infrastructure located within drainage easements on private property, as deemed necessary, to ensure the efficient operation of the system (for example pipes and concrete head walls).

Maintenance of easements including privately installed stormwater infrastructure, open drains and overland flow paths remains the responsibility of the property owner. This includes vegetation management and keeping the easement free from shrubs and trees to help with the flow of water. Open drains or swales in drainage easements can lead to ponding of water, scouring and siltation and Council is not responsible for carrying out work to prevent this.

Property owners can complete work within the drainage easement area, such as improve its amenity or make it easier to maintain, but they must obtain approval from Council prior to work occurring.

Council may carry out maintenance work to stormwater drainage infrastructure located within drainage easements on private property, as deemed necessary, to maintain the hydraulic capacity of the upstream system.

## WHO TO CONTACT IF THERE ARE ISSUES?

ISSUE	WHO TO CONTACT
Blocked, damaged or broken Council infrastructure	Council website - Drainage Issues ( <a href="http://nsw.gov.au">nsw.gov.au</a> )
Blocked, damaged or broken private infrastructure	Contact a plumber
Burst water main, sewerage, or issues with water supply (beyond private property)	Contact Sydney Water – 13 20 90 or visit their website <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Water coming onto your property from neighbouring property	Speak with your neighbour to find a solution or contact Community Justice Centre (CJC) for free advice and mediation services on 1800 990 777 or through their website <a href="http://www.cjc.nsw.gov.au">www.cjc.nsw.gov.au</a> .
Emergencies/Flood Events	State Emergency Services (SES) - 132 500.

## FREQUENTLY ASKED QUESTIONS

- Q. *Water flows over my property or ponds every time it rains. Will Council fix this flooding problem?*
- A. Discussions with your neighbour or a consulting engineer may be able to provide you with advice on ways to improve your property's drainage
- Q. *Why does the table drain overflow into my property during heavy rain?*
- A. Table drains are designed to overflow during heavy rainfall events and will result in sheet flow across properties.
- Q. *Water is ponding in the table drain at the front of my rural property. Will Council investigate this?*
- A. Council will investigate the issue and consider re-profiling the table drain (where possible) when the water ponding is:
- not caused by driveways
  - above the intervention level of 100mm
  - remains for at least 48 hours after rainfall
- Q. *Water is ponding in the gutter at the front of my property. Will Council investigate this?*
- A. Council will investigate the issue if:
- the water is impacting the wheel path of vehicles
- Council will not investigate the issue if:
- the gutter is blocked with overgrown grass from the adjacent nature strip
  - driveway crossing/layback gradients are incorrect
- Q. *Will Council pay to fix damage to my property*
- A. If you are seeking compensation for loss or damage suffered, it must be established that this was caused as a result of Council's negligence. Please visit [www.thehills.nsw.gov.au](http://www.thehills.nsw.gov.au) and search for 'Insurance Claims' for further information on submitting a claim.